

### REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1-8, 10-25, and 27-30 are pending in this application, including independent claims 1, 16, and 23. Independent claim 1, for instance, is directed to a laminate structure comprising a first substrate containing a thermoplastic polymer and a second substrate containing a thermoplastic polymer. Each substrate is textured using heat and pressure to form elevations and depressions in each substrate, the depressions being fused together to form fused portions and the elevations forming unfused portions. The unfused portions define elongated pockets that contain discrete regions of particles, the pockets having a length-to-width ratio of between about 4 to about 100. The fused portions define at least one perimeter region and at least one inner region. The inner region is bonded to an extent such that it is capable of delaminating upon the application of a force thereto, while the perimeter region withstands substantial delamination upon the application of this force.

In the Office Action, independent claims 1, 16, and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,892,535 to Bjornberg, et al. in view of U.S. Patent No. 5,411,497 to Tanzer, et al. In several previous Responses, Applicants have pointed out in detail how the liquid-impervious back sheet 3 of Bjornberg, et al.'s absorbent pad is *substantially flat* rather than a "textured" substrate possessing elevations and depressions.

First, Bjornberg, et al. completely fails to mention or even suggest that the backing layer has elevations and depressions. As discussed in previous Responses,

Bjornberg, et al. fails to teach a flexible laminate structure having both a first and a second substrate that are both textured using heat and pressure to form elevations and depressions in each substrate. Rather, in Bjornberg, et al.'s absorbent pad, a back sheet 3 is laminated to a cover sheet, wherein pockets are formed in the cover sheet while the back sheet remains substantially flat. Bjornberg, et al. repeatedly explains that its "pockets" are formed in its "cover sheet" 7, **not** in its back sheet 3. (See, e.g., col. 2, lines 60-62; col. 4, lines 10-13; col. 5, lines 39-56; col. 7, lines 48-52, etc.). For instance, column 2, lines 41-45 of Bjornberg, et al. describe the cover sheet between the channels being of "three-dimensional form having a plurality of spaced pockets therein, in each of which one of the bodies of absorbent material is disposed," not once suggesting that the back sheet 3 has any sort of "three-dimensional form."

The Examiner continues to state that Bjornberg, et al. discloses a first layer (the cover layer) is thermoformed to produce pockets and then is bonded to a base layer (the back sheet), which would inherently produce elevations and depressions in the first layer and the base layer since the bonded regions would be compressed to some degree and the base layer would bulge out some degree after the bonding process due to the formation of the pocket regions. Office Action, Pg. 2-3.

Applicants respectfully disagree with this analysis and do not believe that the Examiner has met her burden of establishing a *prima facie* case of obviousness. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested in the prior art. The Office Action seems to admit that Bjornberg, et al. fails to disclose that the backing layer has elevations and depressions. Instead, the Office Action states that the backing layer would inherently have elevations

and depressions. Inherency may not be established by probabilities or possibilities.

The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” MPEP § 2163.07(a). Nowhere does Bjornberg, et al. disclose or even suggest that the backing sheet has elevations and depressions. However, Bjornberg, et al. does expressly disclose that the backing sheet is substantially flat. See, e.g. Col. 5, claim 5.

Furthermore, the method of producing the structure disclosed by Bjornberg, et al. contradicts the Office Action’s conclusion that the structures of Bjornberg, et al. inherently have elevations and depressions in both the cover sheet and the backing layer. For example, referring to Figs. 4 and 5 of Bjornberg, et al., the cover sheet is supplied to the rotating multi-perforate drum having holes the same size and shape and arrangement as the pockets 5 it is desired to form. Col. 5, lines 17-30. As such, the cover sheet is given its shape in the course of producing empty pockets. Col. 5, lines 41-42. Then, the pre-formed pockets are filled. Col. 6, lines 10-15. Last, the liquid-impervious back sheet is attached to the exposed portions of the cover sheet. Col. 7, lines 3-7 and 16-18. In this disclosure, Bjornberg, et al. discloses how to form the pockets only in the cover sheet, but fails to teach or even suggest that any shape be given to the backing sheet.

In stark contrast, independent claims 1, 16, and 23 require that both substrates are textured *using heat and pressure* to form elevations and depressions in each substrate. For example, according to Figure 4, substrates 12 and 14 are passed under roll 30 that is heated and contains a surface having various protrusions 32. (Appl., p. 23, line 26 – p. 24, line 2). Another heated roll 34 can also be used to facilitate the

fusing of substrates 12 and 14, and roll 34 may also have a certain pattern of protrusions. (Appl., p. 24, lines 4-10).

Thus, Applicants respectfully submit that Bjornberg, et al. completely fails to disclose or suggest a laminate structure wherein first and second substrates are both textured using heat and pressure to form elevations and depressions in each substrate. Additionally, Bjornberg, et al. completely fails to disclose or suggest a flexible laminate structure wherein at least one of the substrates is substantially impermeable to liquids but substantially permeable to gases. And Tanzer, et al. does not remedy these deficiencies in the disclosure of Bjornberg, et al.

Backsheet 30 of Tanzer, et al. is liquid impermeable and breathable (col. 6, lines 60-68), but it is also the backsheet for the entire diaper 10 and is completely flat. (See, e.g., column 3, lines 64-65 and Figures 2, 4, and 8). Backsheet 30 of Tanzer, et al. is neither textured using heat and pressure to form elevations and depressions in it, nor does it define pockets containing discrete regions of a functional material. Accordingly, Applicants respectfully submit that independent claims 1, 16, and 23 patentably define over the proposed combination of Bjornberg, et al. and Tanzer, et al.

Further, in the Office Action, independent claims 1, 16, and 23 were rejected under 35 U.S.C. § 103(a) in view of U.S. Patent No. 5,938,650 to Baer, et al. However, Baer, et al. fails to teach or suggest several aspects of Applicants' claims. For instance, independent claims 1, 16, and 23 require that the length-to-width ratio of the pockets is between about 4 to about 100. This claimed pocket size is particularly designed to facilitate delamination of the inner region of fused portions upon application of a force,

while preventing substantial delamination in the perimeter region of fused portions upon application of the same force. (Appl., p. 8, lines 17-25; p. 25, line 29 – p. 27, line 6).

In contrast to Applicants' specifically selected dimensions of the pockets (e.g., a length-to-width ratio of between about 4 to about 100), Baer, et al. recites no dimensions for the size/shape its pockets may have. The only dimension supplied by Baer, et al. states that its entire absorbent core may have a thickness of from less than about 7 mm. Thus, Applicants respectfully submit that the claims patentably define over Baer, et al. for at least the reason that the reference fails to teach or suggest the claimed length-to-width ratio of the pockets.

Moreover, Baer, et al. fails to teach or suggest Applicants' claimed laminate structures and absorbent articles in which the fused portions define at least one perimeter region and at least one inner region, wherein the inner region is bonded to an extent such that it is capable of delaminating upon the application of a force thereto, while the perimeter region withstands substantial delamination upon the application of the same force.

Essentially, Baer, et al. merely mentions delamination very generally as a potential secondary result that might occur in its absorbent cores, not recognizing the benefits of bonding fused portions in a certain way such that substantial delamination in a perimeter region of a structure is prevented while delamination within an inner region of the structure is allowed. For at least these reasons, then, Applicants respectfully submit that the laminate structures, absorbent articles, and methods of the present claims would not have been obvious to one of ordinary skill in the art in view of the teachings of Baer, et al.

In addition, the above-cited references were also cited alone and/or in various combinations to reject the dependent claims. Applicants respectfully submit, however, that at least for the reasons indicated above relating to corresponding independent claims 1, 16, and 23, the dependent claims patentably define over the references cited. However, Applicants also note that the patentability of the dependent claims does not necessarily hinge on the patentability of independent claims 1, 16, and 23. In particular, some or all of the dependent claims may possess features that are independently patentable, regardless of the patentability of claims 1, 16, and 23.

As such, for at least the reasons set forth above, Applicants respectfully submit that the present claims patentably define over all of the prior art of record. It is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Befumo is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Amendment.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully submitted,

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